

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

UNITED STATES OF AMERICA)	
)	
)	Case No. 5:93CR30025
)	
v.)	OPINION
)	
IVAN JULIAN STEVENSON,)	By: James P. Jones
)	United States District Judge
Defendant.)	

Ivan Julian Stevenson, Pro Se Defendant.

The defendant, a federal inmate proceeding pro se, has filed a Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C. § 2255, asserting that under *Alleyne v. United States*, 133 S. Ct. 2151 (2013), he is entitled to a reduction of his criminal sentence of imprisonment. Upon review of the motion and court records, I find that the § 2255 motion must be dismissed as successive.¹

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. *See* § 2255(h). Court

¹ Stevenson also argues that if he is not allowed to proceed with a new § 2255 motion, I should reopen his initial § 2255 proceedings under Rule 60(b) of the Federal Rules of Civil Procedure. I find no merit to this argument. Because Stevenson is raising new claims for relief from his sentence under § 2255, rather than asserting any deficiency in the prior § 2255 proceedings, his current submission is properly considered as a successive § 2255 motion rather than a Motion for Relief from Judgment under Rule 60(b). *See Gonzales v. Crosby*, 545 U.S. 524, 531-32 (2005).

records indicate that Stevenson previously filed a § 2255 motion concerning this same conviction and sentence, which the court denied. *See Stevenson v. United States*, Case No. 7:01CV00495 (W.D. Va. July 9, 2001) (finding § 2255 claim without merit because *Apprendi v. New Jersey*, 530 U.S. 466 (2000), did not apply retroactively to Stevenson's case already final), *appeal dismissed*, F. App'x 173 (4th Cir. 2001), *cert. denied*, 536 U.S. 934 (2002). As Stevenson offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, I must dismiss his current action without prejudice.

DATED: July 2, 2014

/s/ James P. Jones
United States District Judge